

July 18, 2019 11:41 AM

(Rev. 11/2012)

U.S. DISTRICT COURT
WESTERN DISTRICT OF MICHIGANjlb Scanned by 23 7/19/19MOTION UNDER 28 U.S.C. § 2255 TO VACATE, SET ASIDE, OR CORRECT SENTENCE BY A
PERSON IN FEDERAL CUSTODY

United States District Court <u>Michigan</u>	District <u>Western</u>
Name (under which you were convicted): <u>William Hugh Wilson</u>	Docket or Case No.: <u>1:17-cr-00060-PLM</u>
Place of Confinement: <u>F.C.I. McKean</u>	Prisoner No.: <u>21604-040</u>
UNITED STATES OF AMERICA	
Movant (include name under which convicted)	
v. <u>William Hugh Wilson</u>	

1:19-cv-578Paul L. Maloney
United States District Judge

MOTION

- (a) Name and location of court that entered the judgment of conviction you are challenging: United States District Court for the Western District of Michigan
(107 Federal Bldg. Kalamazoo, MI)
- (b) Criminal docket or case number: 1:17-cr-00060-PLM
- (a) Date of the judgment of conviction: October 8, 2017
- (b) Date of sentencing: October 8, 2017
- Identify all counts and crimes for which you were convicted and sentenced in this case: Felon in Possession of Firearms/ACCA
- Length of sentence for each count or crime for which you were convicted in this case: 204 months + 5 years supervised release
- (a) What was your plea?

Not guilty	<input type="checkbox"/>
Guilty	<input checked="" type="checkbox"/>
Nolo contendere (no contest)	<input type="checkbox"/>
- (b) If you entered a guilty plea to one count or charge, and a not guilty plea to another count or charge, give details:

6. If you went to trial, what kind of trial did you have? (Check one)

- (a) Jury ☐
(b) Judge only ☐

7. Did you testify at the trial? Yes ☐ No ☐

8. Did you appeal from the judgment of conviction? Yes ☒ No ☐

9. If you did appeal, answer the following:

(a) Date you filed: 11/02/2017

(b) Name of court: United States Court of Appeals Sixth Circuit

(c) Docket or case number: 17-2324

(d) Result: Affirmed Judgement

(e) Date of result: 07/16/2018

(f) Grounds raised: ACCA enhancement

(g) Did you file a petition for certiorari in the United States Supreme Court? Yes ☐ No ☐

If "Yes," answer the following:

(1) Date you filed: _____

(2) Docket or case number: _____

(3) Result: _____

(4) Date of result: _____

(5) Grounds raised: _____

10. Other than the direct appeals listed above, have you previously filed any other motions, petitions, or applications concerning this judgment of conviction in any court?

11. If your answer to Question 10 was "Yes," give the following information: Yes ☐ No ☐

(a) (1) Date you filed: _____

(2) Name of court: _____

(3) Docket or case number (if you know): _____

(4) Date of filing (if you know): _____

(5) Nature of the proceeding: _____

(6) Grounds raised: _____

(7) Did you receive a hearing where evidence was given on your motion, petition, or application? Yes ☐ No ☐

(8) Result: _____

(9) Date of result: _____

(b) If you filed any second motion, petition, or application, give the same information:

(1) Date you filed: _____

(2) Name of court: _____

(3) Docket or case number (if you know): _____

(4) Date of filing (if you know): _____

(5) Nature of the proceeding: _____

(6) Grounds raised: _____

(7) Did you receive a hearing where evidence was given on your motion, petition, or application? Yes ☐ No ☐

(8) Result: _____

(9) Date of result : _____

(c) Did you appeal to a federal appellate court having jurisdiction over the action taken on your motion, petition, or application?

(1) First petition: Yes ☐ No ☐

(2) Second petition: Yes ☐ No ☐

(d) If you did not appeal from the action on any motion, petition, or application, explain briefly why you did not:

12. For this motion, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

GROUND ONE: This court lacks subject matter
jurisdiction over this case

(a) Supporting FACTS (Do not argue or cite law. Just state the specific facts that support your claim.): The
conviction in this is in violation of the laws
of the United States and does not conform
to the Constitution for the United States.
(see supporting memorandum section A.)

(b) Direct Appeal of Ground One:

(1) If you appealed from the judgment of conviction, did you raise this issue? Yes ☐ No ☒

(2) If you did not raise this issue in your direct appeal, explain why: The lawyer refused
to raise this issue after appellate
made it clear of his intent to do so.

(c) Post-Conviction Proceedings:

(1) Did you raise this issue in any post-conviction motion, petition or application? Yes ☐ No ☐

(2) If your answer to Question (c)(1) is "Yes," state:

Type of motion or petition: _____

Date motion was filed: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number: _____

Result (attach a copy of the court's opinion and order, if available): _____

Date of result: _____

(3) Did you receive a hearing on your motion? Yes ☐ No ☐

(4) Did you appeal from the denial of your motion, petition or application? Yes ☐ No ☐

(5) If your answer to Question (c)(4) is "Yes," did you raise this issue in the appeal? Yes ☐ No ☐

If yes, answer the following:

Date you filed: _____

Name of court where the appeal was filed : _____

Docket or case number: _____

Result (attach a copy of the court's opinion and order, if available) : _____

Date of result: _____

GROUND TWO: The plea in this matter is
inadmissible evidence

(a) Supporting FACTS (Do not argue or cite law. Just state the specific facts that support your claim.): The
elements required to be satisfied has not
been satisfied where counsel misled, misadvised, and
admitted to elements of the crime, wherefore
counsel was ineffective. (see supporting
memorandum section B.)

(b) Direct Appeal of Ground Two:

(1) If you appealed from the judgment of conviction, did you raise this issue? Yes ☐ No ☒

(2) If you did not raise this issue in your direct appeal, explain why: The lawyer
refused to raise this issue after appellate it
clear of his intent to do so.

(c) Post-Conviction Proceedings:

(1) Did you raise this issue in any post-conviction motion, petition or application? Yes ☐ No ☐

(2) If your answer to Question (c)(1) is "Yes," state:

Type of motion or petition: _____

Date motion was filed: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number: _____

Result (attach a copy of the court's opinion and order, if available): _____

Date of result: _____

(3) Did you receive a hearing on your motion? Yes ☐ No ☐

(4) Did you appeal from the denial of your motion, petition or application? Yes ☐ No ☐

(5) If your answer to Question (c)(4) is "Yes," did you raise this issue in the appeal? Yes ☐ No ☐

If yes, answer the following:

Date you filed: _____

Name of court where the appeal was filed : _____

Docket or case number: _____

Result (attach a copy of the court's opinion and order, if available) : _____

Date of result: _____

GROUND THREE: _____

(a) Supporting FACTS (Do not argue or cite law. Just state the specific facts that support your claim.): _____

(b) Direct Appeal of Ground Three:

(1) If you appealed from the judgment of conviction, did you raise this issue? Yes ☐ No ☐

(2) If you did not raise this issue in your direct appeal, explain why: _____

(c) Post-Conviction Proceedings:

(1) Did you raise this issue in any post-conviction motion, petition or application? Yes ☐ No ☐

(2) If your answer to Question (c)(1) is "Yes," state:

Type of motion or petition: _____

Date motion was filed: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number: _____

Result (attach a copy of the court's opinion and order, if available): _____

Date of result: _____

(3) Did you receive a hearing on your motion? Yes ☐ No ☐

(4) Did you appeal from the denial of your motion, petition or application? Yes ☐ No ☐

(5) If your answer to Question (c)(4) is "Yes," did you raise this issue in the appeal? Yes ☐ No ☐

If yes, answer the following:

Date you filed: _____

Name of court where the appeal was filed : _____

Docket or case number: _____

Result (attach a copy of the court's opinion and order, if available) : _____

Date of result: _____

GROUND FOUR: _____

(a) Supporting FACTS (Do not argue or cite law. Just state the specific facts that support your claim.): _____

(b) **Direct Appeal of Ground One:**

(1) If you appealed from the judgment of conviction, did you raise this issue? Yes ☐ No ☐

(2) If you did not raise this issue in your direct appeal, explain why: _____

(c) **Post-Conviction Proceedings:**

(1) Did you raise this issue in any post-conviction motion, petition or application? Yes ☐ No ☐

(2) If your answer to Question (c)(1) is "Yes," state:

Type of motion or petition: _____

Date motion was filed: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number: _____

Result (attach a copy of the court's opinion and order, if available): _____

Date of result: _____

(3) Did you receive a hearing on your motion? Yes ☐ No ☐

(4) Did you appeal from the denial of your motion, petition or application? Yes ☐ No ☐

(5) If your answer to Question (c)(4) is "Yes," did you raise this issue in the appeal? Yes ☐ No ☐

If yes, answer the following:

Date you filed: _____

Name of court where the appeal was filed : _____

Docket or case number: _____

Result (attach a copy of the court's opinion and order, if available) : _____

Date of result: _____

13. Is there any ground in this motion that you have not previously presented in some federal court? If so, state which ground or grounds have not been presented and your reasons for not presenting them:

Ground One and Ground Two. The lawyer refused to raised the issues after appellate made it clear of his intent to do so.

14. Do you have any motion, petition, or appeal now pending (filed and not decided yet) in any court for the judgment you are challenging? Yes ☐ No ☐

If "Yes," state the date of filing, the name and location of the court, the docket or case number, the type of proceeding, and the issues raised.

15. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment you are challenging:

(a) At preliminary hearing: _____

(b) At arraignment and plea: _____

(c) At trial: _____

(d) At sentencing: _____

(e) On appeal: _____

(f) In any post-conviction proceeding: _____

(g) On appeal from any ruling against you in a post-conviction proceeding: _____

16. Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging?
Yes ☐ No ☒

(a) If so, give name and location of court that imposed the other sentence you will serve in the future: _____

(b) Give the date the other sentence was imposed: _____

(c) Give the length of the other sentence: _____

(d) Have you filed, or do you plan to file, any motion, petition, or application that challenges the judgment or sentence to be served in the future? Yes ☐ No ☐

18. TIMELINESS OF MOTION: If your judgment of conviction became final over one year ago, you must explain why the one-year statute of limitations as contained in 28 U.S.C. § 2255 does not bar your motion.*

* The Antiterrorism and Effective Death Penalty Act of 1996 (" AEDPA") as contained in 28 U.S.C. § 2255, paragraph 6, provides in part that:

A one-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of--

- (1) the date on which the judgment of conviction became final;
- (2) the date on which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, if the movant was prevented from making such a motion by such governmental action;
- (3) the date on which the right asserted was initially recognized by the Supreme Court, if that right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or
- (4) the date on which the facts supporting the claim or claims presented could have been discovered through the exercise of due diligence.

Therefore, movant asks that the Court grant him or her the relief to which he or she may be entitled in this proceeding.

I declare under penalty of perjury that the foregoing is true and correct and that this Motion Under § 2255 was placed in the prison mailing system on July 10, 2019 (month, date, year).

Walter H. Zerbe
Signature of Movant

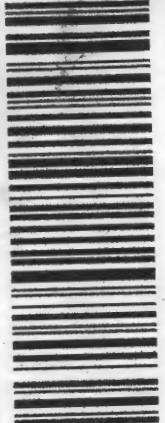
July 10, 2019
Date

Pro Se
Signature of Attorney (if any).

If the person signing is not movant or an attorney, state relationship to movant and explain why movant is not signing this petition.

21604-040
William Wilson
PO BOX
8000
Bradford, PA 16701
United States

CERTIFIED MAIL



7018 0680 0001 1424 2912

21604-040
Federal Building
410 W Michigan AVE
Rm B-35
Kalamazoo, MI 49007
United States



FEDERAL CORRECTIONAL INSTITUTION, MCKEAN
P.O. BOX 5000, BRADFORD, PA 16701

DATE 05/12/2019

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